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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,502	01/28/2004	Maryse Lafouasse	P06312US01 - PHI 1367	3477
27142	7590	08/22/2006	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. ATTN: PIONEER HI-BRED 801 GRAND AVENUE, SUITE 3200 DES MOINES, IA 50309-2721			KRUSE, DAVID H	
			ART UNIT	PAPER NUMBER
			1638	

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,502	Applicant(s) LAFOUASSE, MARYSE	
	Examiner David H. Kruse	Art Unit 1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18, 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 19-24 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

STATUS OF THE APPLICATION

1. This Office action is in response to the Supplemental Response filed on 7 June 2006.
2. Those rejections not specifically addressed are withdrawn in view of Applicant's arguments.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to 37 CFR § 1.105 Request

4. Applicant's/Assignee's response to the request for information under 37 CFR § 1.105 is acknowledged. The Examiner considers said response as fully responsive the requirement.

Claim Rejections - 35 USC § 112

5. These rejections under 35 U.S.C. § 112, second paragraph, addresses different issues than that of the previous Office action mailed 12 January 2006. Applicant's arguments filed 7 June 2006 have been fully considered, but are not specifically directed to the instant rejections.

Claims 19-24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 19-24 are indefinite because the specification does not teach that an inbred maize line having all of the morphological and physiological characteristics of P0GC as comprising a single locus conversion, a transgene or comprising a gene conferring male sterility. The instant claims appear to

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be directed to a product-by-process, where in no process steps are recited. Hence, the metes and bounds of the claims are unclear.

Claims 28 and 29 remain rejected under 35 USC § 112, second paragraph, for the reasons of record. Applicant argues that said claims are definite because they incorporate all elements of claim 11 (page 4 of the Remarks). This argument is not found to be persuasive because it remains unclear what the metes and bounds of employing a maize plant encompasses. Amended claims 28 to recite -- comprising crossing the maize plant of claim 11, or parts thereof, with another maize plant -- would obviate this rejection.

6. Claims 19-24 and 27 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This rejection addresses different issues than that of the previous Office action mailed 12 January 2006. Applicant's arguments filed 7 June 2006 have been fully considered, but are not specifically directed to the instant rejections.

At claims 19-24, Applicant does not describe maize line PH0GC as comprising a single locus conversion, a transgene or comprising a gene conferring male sterility. In addition, the maize plants of claims 19-21 are not adequately described because the "single locus conversion" would/could produce a broad genus of morphological and physiological characteristics that differ substantially from inbred line PH0GC.

At claim 27, Applicant fails to adequately describe derived inbred lines produced from inbred line PH0GC required to practice the claimed method. Applicant's specification states that those skilled in the art cannot predictably describe what the resulting progeny of a breeding method will look like (paragraph spanning pages 6-7).

Allowable Subject Matter

7. Claims 1-18, 25 and 26 are allowed.
8. Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. This Office action is non-final in view of the new grounds of rejection.
10. Claims 19-24 and 27-29 remain rejected.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Kruse, Ph.D. whose telephone number is (571) 272-0799. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at (571) 272-0975. The central FAX number for official correspondence is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-1600.

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER



David H. Kruse, Ph.D.
17 August 2006

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12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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